

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:06-po-015

-vs-

Chief Magistrate Judge Michael R. Merz

:

CHAD A. SCHOOLCRAFT,

Defendant.

DECISION AND ORDER

This case came on for trial to the Court, sitting without a jury, at 2:00 p.m. on Monday, February 5, 2007. At the conclusion of the Government's case, the Defendant's motion for judgment of acquittal pursuant to Fed. R. Crim. P. 29 was granted as to the charge of driving under the influence of alcohol in violation of Ohio Revised Code § 4511.19(A)(1)(a) for the reasons stated on the record in open court. Defendant is accordingly discharged from responding further to that charge as made in Count 2 of the Information.

Defendant was also charged with refusing the required test under 18 U.S.C. § 3118. While there was ample proof on that charge, the charge is completely moot, since the only possible penalty is license suspension on federal property for one year from the date of the offense and that time period expired more than six months ago. Defendant is therefore discharged from responding further on Count 1.

February 5, 2007.

s/ Michael R. Merz
Chief United States Magistrate Judge